

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:)	Mail Stop AF
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Craig L. REDING et al.)	Group Art Unit: 2617
)	
Application No.: 10/720,825)	Examiner: H. Phan
)	
Filed: November 24, 2003)	
)	
For: METHODS AND SYSTEMS FOR)	
SINGLE NUMBER TEXT)	
MESSAGING)	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

U.S. Patent and Trademark Office
Customer Window, Mail Stop AF
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

Applicants respectfully request review of the final Office Action, dated August 14, 2007, in view of the remarks below and in conjunction with the Notice of Appeal filed concurrently with this request. Claims 1-7, 9, 10, 12, 13, 16, and 17 are pending in this application.

The final Office Action rejects claims 1, 2, 6, 9, 10, 12, 13, 16, and 17 under 35 U.S.C. § 103(a) as unpatentable over KARVE (U.S. Patent Application Publication No. 2002/0137530) in view of PACKHAM et al. (U.S. Patent Application Publication No. 2003/0055906); rejects claim 3 under 35 U.S.C. § 103(a) as unpatentable over KARVE in view of PACKHAM et al., and further in view of GOPINATH et al. (U.S. Patent Application Publication No.

2004/0002350); rejects claim 4 under 35 U.S.C. § 103(a) as unpatentable over KARVE in view of PACKHAM et al., and further in view of DEHLIN (U.S. Patent Application Publication No. 2004/0203942); rejects claim 5 under 35 U.S.C. § 103(a) as unpatentable over KARVE in view of SABO et al. (U.S. Patent Application Publication No. 2003/0096626); and rejects claim 7 under 35 U.S.C. § 103(a) as unpatentable over KARVE in view of PACKHAM et al., and further in view of FOSTICK et al. (U.S. Patent Application Publication No. 2002/0187794). Applicants respectfully request review of the final rejection due to factual deficiencies in the Examiner's rejections.

Rejection under 35 U.S.C. § 103(a) based on KARVE and PACKHAM et al.

The rejection of claims 1, 2, 6, 9, 10, 12, 13, 16, and 17 contains factual deficiencies with respect to the alleged teachings of KARVE and PACKHAM et al.

As to claim 1, KARVE and PACKHAM et al. do not disclose or suggest identifying a second device of the plurality of devices as a preferred device instead of the first device for receiving the SMS message based on information stored by the receiving party (see, for example, Applicants' arguments at pages 3-5 of the Request for Reconsideration, filed September 28, 2007). Moreover, Applicants submit that one skilled in the art would not reasonably look to incorporate PACKHAM et al.'s alleged disclosure of a home location register (HLR) that stores forwarding information and a Short Message Service/Gateway Mobile Switching Center (SMS/GMSC) that forwards text messages intended for a first device to a second device into the KARVE system since the KARVE system is directed to actions performed by a cellular device (which the Examiner alleges corresponds to the recited first device). Applicants submit that one skilled in the art at the time of Applicants' invention would not have been motivated to incorporate PACKHAM et al.'s alleged disclosure of "instead of the first device for receiving the

SMS" into the KARVE system, absent impermissible hindsight (see, for example, Applicants' arguments at pages 5-7 of the Request for Reconsideration).

Due to the foregoing factual deficiencies in the disclosures of KARVE and PACKHAM et al., Applicants respectfully request that the rejection of claim 1 as unpatentable over KARVE and PACKHAM et al. be reconsidered and withdrawn.

Claims 2 and 6 are allowable based on their dependency from claim 1.

Independent claims 9, 12, and 16 recite features similar to (yet possibly of different scope than) features described above with respect to claim 1. Therefore, Applicants submit that claims 9, 12, and 16 are patentable over KARVE and PACKHAM et al., whether taken alone or in any reasonable combination, for at least reasons similar to reasons given above with respect to claim 1.

Claim 10 is allowable based on its dependency from claim 9. Moreover, this claim is patentable over KARVE and PACKHAM et al. for reasons of its own.

KARVE and PACKHAM et al. do not disclose or suggest that the SMS server is further configured to store messages to a database when the preferred device is not available to receive messages (see, for example, Applicants' arguments at pages 7-9 of the Request for Reconsideration).

Claim 13 is allowable based on its dependency from claim 12. Moreover, this claim recites features similar to (yet possibly of different scope than) features described above with respect to claim 10. Therefore, claim 13 is patentable over KARVE and PACKHAM et al. for at least reasons similar to reasons given above with respect to claim 10.

Claim 17 is allowable based on its dependency from claim 16.

Due to the foregoing factual deficiencies in the disclosures of KARVE and PACKHAM et al., Applicants respectfully request that the rejection of claims 1, 2, 6, 9, 10, 12, 13, 16, and 17 as unpatentable over KARVE and PACKHAM et al. be reconsidered and withdrawn.

Rejection under 35 U.S.C. § 103(a) based on KARVE, PACKHAM et al., and GOPINATH et al.

The rejection of claim 3 contains factual deficiencies with respect to the alleged teachings of KARVE, PACKHAM et al., and GOPINATH et al.

KARVE, PACKHAM et al., and GOPINATH et al. do not disclose or suggest that sending the formatted message comprises sending the formatted message to an e-mail address (see, for example, Applicants' arguments at pages 10-11 of the Request for Reconsideration).

Due to the foregoing factual deficiencies in the disclosures of KARVE, PACKHAM et al., and GOPINATH et al., Applicants respectfully request that the rejection of claim 3 as unpatentable over KARVE, PACKHAM et al., and GOPINATH et al. be reconsidered and withdrawn.

Rejection under 35 U.S.C. § 103(a) based on KARVE, PACKHAM et al., and DEHLIN

The rejection of claim 4 contains factual deficiencies with respect to the alleged teachings of KARVE, PACKHAM et al., and DEHLIN (see, for example, Applicants' arguments at pages 11-12 of the Request for Reconsideration).

Rejection under 35 U.S.C. § 103(a) based on KARVE and SABO et al.

The rejection of claim 5 contains factual deficiencies with respect to the alleged teachings of KARVE and SABO et al. (see, for example, Applicants' arguments at page 12 of the Request for Reconsideration).

Rejection under 35 U.S.C. § 103(a) based on KARVE, PACKHAM et al., and FOSTICK et al.

The rejection of claim 7 contains factual deficiencies with respect to the alleged teachings of KARVE, PACKHAM et al., and FOSTICK et al. (see, for example, Applicants' arguments at page 13 of the Request for Reconsideration).

In view of the foregoing remarks, Applicants submit that clear factual deficiencies exist with respect to the rejections of claims 1-7, 9, 10, 12, 13, 16, and 17. Therefore, Applicants respectfully request withdrawal of the outstanding rejections and the timely allowance of this application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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